

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

**VALADOR, INC.,
Plaintiff,**

v.

**HTC CORPORATION, *et al.*,
Defendants.**

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Case No. 1:16-cv-1162

ORDER

The matter is before the Court on defendants' bill of costs (Doc. 298) and motion for attorneys' fees (Doc. 302). The motions were referred to United States Magistrate Judge John Anderson, who entered a thorough Report and Recommendation (Doc. 319). In his Report, Judge Anderson recommends granting defendants' motions, finding that this is an extraordinary case where attorneys' fees and costs may be awarded to the prevailing party under the Lanham Act. *Id.* (citing 15 U.S.C. § 1117(a)). Specifically, Judge Anderson concluded that plaintiff's trademark claims were objectively unreasonable and that awarding defendants' requested attorneys' fees is appropriate. Judge Anderson recommends awarding defendants \$1,502,909.95 in attorneys' fees and \$29,852.28 in costs.

Plaintiff objects to Judge Anderson's Report and Recommendation, arguing that (i) plaintiff's claims were not objectively unreasonable when they were brought because they were brought in good faith reliance on an initial determination by the U.S. Patent and Trademark Office that defendants' proposed marks would create a likelihood of confusion with plaintiff's marks; (ii) plaintiff's claims were not objectively unreasonable because it relied on the opinions of a qualified expert witness; (iii) plaintiff's claims were not objectively unreasonable because at the March 3, 2017 summary judgment hearing the Court stated that some or all of the claims may

survive summary judgment; and (iv) plaintiff's appeal was objectively reasonable because plaintiff could have reasonably believed that the Fourth Circuit would reverse the grant of summary judgment. None of plaintiff's objections warrant a finding that its claims were objectively reasonable and therefore its objections must be overruled.

Accordingly,

It is hereby **ORDERED** that Judge Anderson's Report and Recommendation (Doc. 319) is **ADOPTED** in its entirety as the opinion of this Court over plaintiff's objection.

It is further **ORDERED** that defendants' motion for bill of costs (Doc. 298) and motion for attorneys' fees (Doc. 302) are **GRANTED**.

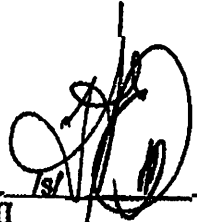
The Clerk of Court is directed to enter amended judgment in favor of defendants and against plaintiff in the amount of \$1,532,762.23.

The Clerk is directed to send a copy of this Order to all counsel of record.

Alexandria, Virginia
October 6, 2018

10, 2018





T. S. Ellis, III
United States District Judge